

State Of Hawaii
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of State Parks
Honolulu, Hawaii
October 23, 2009

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

SUBJECT: Request from the Na‘alehu Theatre to use the Large Pavilion
at the Wailoa River State Recreation Area in Hilo, Hawaii,
for their Ho‘ike A‘o Kanikapila

The Na‘alehu Theatre on the Big Island is requesting the use of the large pavilion at the Wailoa River State Recreation Area (Event Site) to hold their “Ho‘ike A‘o Kanikapilo” (Event) a Ho‘olaulea free open to the public concert on Sunday, December 13, 2009 (Exhibit A).

The proposed Special Use Permit will be for December 13, 2009 only. The Na‘alehu Theatre is requesting to be allowed to sell food and beverages at this event.

The Na‘alehu Theatre is recognized as being exempted from federal income tax under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended.

By letter dated August 2, 2009 (Exhibit A), Ms. Chelle C. Pahinui, Naalehu Theatre, Executive Director, has provided a general overview of the Event and rough timeline.

“The fifth segment of the Island wide annual *He Huaka‘I E Pana Na I Ke Ea (A Journey to bring pulse to the Living)* and *Ho‘ike A‘o Kanikapila* will be held in the Hilo District. The series directed by Slack-key Master Cyril Pahinui provides a three-day workshop in slack-key guitar, ukulele, and hula. Picking up in Kea‘au, the journey continues through classes held at various Mele Wai Pana (storied/treasured sites in the Hilo District. Music and mololelo content focuses on songs from the areas presented during site visitations. Primary goals of the project are to reinvest in Hawaiian culture, through traditional music instruction and exposure, strengthen community identity while retaining and creating community cultural anchors and to reinforce community social, cultural, and economic values while providing employment opportunities for Hawaiian cultural practitioners. These workshops average 25-50 in attendance.”

Additionally, the letter requests,

“We are requesting a special use permit for the large pavilion located at the Wailoa State Park on December 13, 2009 for *Ko‘ike A‘o Kanikapila*, a Ho‘olaulea a free open to the public concert. We are also requesting to be allowed to sell food and beverages at this event. We will obtain proper food permits and use certified kitchen for preparation.

ITEM E-2

Maximum attendance at these concerts has been around 300. We do understand the 500 capacity limitation of the pavilion and are committed to complying with that.”

A copy of the submittal was sent to the Office of Hawaiian Affairs for their review. In OHA’s letter dated October 2, 2009 (Exhibit B), Mr. Clyde W. Nāmu‘o writes, “OHA supports this celebration and perpetuation of Native Hawaiian culture in a free, public setting.”

RECOMMENDATION:

That the Board approve the issuance of a Special Use Permit to the Na‘alehu Theatre to hold their “Ho‘ike A‘o Kanikapilo” (Event) a Ho‘olaulea free open to the public concert on Sunday, December 13, 2009 at the large pavilion at the Wailoa River State Recreation Area (Event Site) in accordance with the representations above-mentioned and subject to the following conditions whereby the Permittee shall:

1. be allowed to sell food and beverages the day during the Event, provided, that the sale of alcoholic beverages is prohibited;
2. have the Event held within the confines of the large pavilion;
3. obtain all necessary County of Hawaii and State of Hawaii permits;
4. provide security for the Event;
5. procure and maintain, at its own cost and expense, in full force and effect throughout the term of this Special Use permit, commercial general liability insurance, in an amount of at least \$1,000,000.00 for each occurrence and \$2,000,000.00 aggregate, with an insurance company or companies licensed to do business in the State of Hawaii. The policy or policies of insurance shall name the State of Hawaii as an additional insured. The insurance shall cover the entire Event Site, including all grounds and all roadways or sidewalks on or adjacent to the Event Site in the use or control of the Permittee;
6. operate food service in compliance with all applicable State Department of Health rules and regulations;
7. waive any and all claims they may have against the State of Hawaii and its respective officers, agents and employees, and agrees to defend, hold harmless and indemnify the State of Hawaii and its respective officers, agents and employees from any suits, actions and claims arising out of and in any way connected with the activities permitted under the permit;

8. not obstruct or unreasonably interfere with the general public in their normal use of the Wailoa River State Recreation Area;
9. be responsible for clean up of the Event Site;
10. be liable for repairs, replacement and/or payment for any damages incurred at the Event Site during the period of this permit;
11. provide and hire security which shall include at least one (1) DLNR Conservation and Resources Enforcement Officer (CREO). Such DLNR CREO shall begin work at least one hour prior to the Event's opening, shall be present at the Event Site during all hours of operation up to one hour after the closing of the Event. Other security personnel may include special duty Hawaii County Police Officer(s) and/or other licensed, uniformed security personnel, etc.;
12. pay the appropriate large pavilion rental fee together with an applicable refundable deposit and a \$100 per day commercial rental fee;
13. complete its Event, including clean up and vacate the Event Site prior to 12:00 midnight;
14. comply with any other conditions that may be imposed by the Department, the Board of Land and Natural Resources, the Chairperson and/or rule revisions adopted prior to the commencement of the Event.



Respectfully submitted,



Daniel S. Quinn
State Parks Administrator

APPROVED FOR SUBMITTAL:



LAURA H. THIELEN, Chairperson

09-274

Post Office Box 25
Pahala Hawai'i 96777
Phone: 808-896-1911

NA'ALEHU THEATRE

August 2, 2009

Dean Takebayashi,
Hawaii Parks District Superintendent
P.O. Box 936
Hilo, HI 96721

Ano ai ke aloha Mr. Dean Takebayashi,

We are requesting a special use permit for the large pavilion located at the Wailoa State Park on December 13, 2009 for *Ho'ike A'o Kanikapila*, a Ho'olaulea a free open to the public concert. We are also requesting to be allowed to sell food and beverages at this event. We will obtain proper food permits and use certified kitchen for preparation.

December 10-13, 2009. George Na'ope and the Na'alehu Theatre present *Ho'ike A'o Kanikapila*, a Ho'olaulea style concert by professionals and students that concludes the *He Huaka'i E Pana Na I Ke Ea* (A Journey to bring pulse to the Living) workshop. The performances and workshops are free and open to the general public. Maximum attendance at these concerts has been around 300. We do understand the 500 capacity limitation of the pavilion and are committed to complying with that.

The fifth segment of the Island wide annual *He Huaka'i E Pana Na I Ke Ea* (A Journey to bring pulse to the Living) and *Ho'ike A'o Kanikapila* will be held in the Hilo District. The series directed by Slack-key Master Cyril Pahinui provides a three-day workshop in slack-key guitar, ukulele, and hula. Picking up in Kea'au, the journey continues through Pana'ewa into Kea'ukaha, ending in Hilo. Each instructor shares their unique style during classes held at various Mele Wai Pana (storied/treasured sites in the Hilo District. Music and mo'olelo content focuses on songs from the areas presented during site visitations. Primary goals of the project are to reinvest in Hawaiian culture, through traditional music instruction and exposure, strengthen community identity while retaining and creating community cultural anchors and to reinforce community social, cultural, and economic values while providing employment opportunities for Hawaiian cultural practitioners. These workshops average 25-50 in attendance.

The Na'alehu Theater organization is a non-profit organization founded in 1993, with a keen interest in Hawai'i's cultural, theatrical and historical past. We have a strong commitment to preservation and conservation of these resources and pursue opportunities

EXHIBIT A



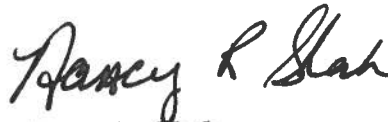
to demonstrate this responsibility. We host drug/alcohol free events and promote that message.

The goals and purpose of the Na'alehu Theatre programs are 1) to present and produce performing arts and community events; 2) to provide administrative development services to individuals and organizations; 3) to provide educational programs in drama, music, dance, video, and Hawai'i's history and culture; 4) and to promote knowledge, understanding, and appreciation of the performing arts at the community level.

Mahalo, for your consideration of this request and for supporting our community programs and Hawaiian music.



Chelle C. Pahinui
Na'alehu Theatre, Executive Director



Nancy R. Shah
Na'alehu Theatre, Treasurer

Contact Information for this request:

Chelle Pahinui
Chelle@cyrilpahinui.com
808-896-1911

Nancy R. Shah
mele11111@yahoo.com
808-443-1628

09-283

PHONE (808) 594-1888

FAX (808) 594-1865



STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS
711 KAPI'OLANI BOULEVARD, SUITE 500
HONOLULU, HAWAII 96813

2009 OCT -8 P 3:32

OFFICE OF STATE / HILLO, HI

HRD09/4687

October 2, 2009

Dean H. Takebayashi
Hawai'i Parks District Superintendent
Department of Land and Natural Resources
Division of State Parks
P.O. Box 936
Hilo, HI 96721-0936

RE: Request for the Na'alehu Theatre to use the Large Pavilion at the Wailoa River State Recreation Area in Hilo, Hawai'i for their Ho'ike A'o Kanikapila.

Aloha e Dean Takebayashi,

The Office of Hawaiian Affairs (OHA) received the above-mentioned letter, dated September 30, 2009. The draft submittal would allow the Na'alehu Theatre to hold their free Ho'olaulaea on Sunday, December 13, 2009, at the Wailoa River State Recreation Area. This would include a three-day workshop in slack-key guitar, ukulele and hula. OHA supports this celebration and perpetuation of Native Hawaiian culture in a free, public setting.

Thank you for the opportunity to comment. If you have further questions, please contact Heidi Guth by phone at (808) 594-1962 or e-mail her at heidig@oha.org.

'O wau iho nō me ka 'oia'i'o,

A handwritten signature in black ink, appearing to read "Clyde W. Nāmu'o".

Clyde W. Nāmu'o
Administrator

C: OHA Hilo Community Resource Coordinator

EXHIBIT B

Handwritten initials in black ink, possibly "dt".

DEPARTMENT OF THE TREASURY

2508
OH 45201

022000

THEATRE
DEMORUELLE
X 588
NAALEHU, HI 96772-0588Employer Identification Number:
99-0319814DLN:
310108569Contact Person:
JOHN JENNEWEIN

ID# 31307

Contact Telephone Number:
(877) 829-5500Our Letter Dated:
September 1995Addendum Applies:
No

Dear Applicant:

This modifies our letter of the above date in which we stated that you would be treated as an organization that is not a private foundation until the expiration of your advance ruling period.

Your exempt status under section 501(a) of the Internal Revenue Code as an organization described in section 501(c)(3) is still in effect. Based on the information you submitted, we have determined that you are not a private foundation within the meaning of section 509(a) of the Code because you are an organization of the type described in section 509(a)(1) and 170(b)(1)(A)(vi).

Grantors and contributors may rely on this determination unless the Internal Revenue Service publishes notice to the contrary. However, if you lose your section 509(a)(1) status, a grantor or contributor may not rely on this determination if he or she was in part responsible for, or was aware of, the act or failure to act, or the substantial or material change on the part of the organization that resulted in your loss of such status, or if he or she had knowledge that the Internal Revenue Service had given notice that you would no longer be classified as a section 509(a)(1) organization.

You are required to make your annual information return, Form 990 or Form 990-EZ, available for public inspection for three years after the later of the due date of the return or the date the return is filed. You are also required to make available for public inspection your exemption application, any supporting documents, and your exemption letter. Copies of these documents are also required to be provided to any individual upon written or in person request without charge other than reasonable fees for copying and postage. You may fulfill this requirement by placing these documents on the Internet. Penalties may be imposed for failure to comply with these requirements. Additional information is available in Publication 557, Tax-Exempt Status for Your Organization, or you may call our toll free number shown above.

If we have indicated in the heading of this letter that an addendum applies, the addendum enclosed is an integral part of this letter.

Letter 1050 (DO/CG)

NAALEHU THEATRE

Because this letter could help resolve any questions about your private foundation status, please keep it in your permanent records.

If you have any questions, please contact the person whose name and telephone number are shown above.

Sincerely yours,

Steven T. Miller

Steven T. Miller
Director, Exempt Organizations

INTERNAL REVENUE SERVICE
DISTRICT DIRECTOR
2 CUPANIA CIRCLE
MONTEREY PARK, CA 91755-7406

DEPARTMENT OF THE TREASURY

Date:

SEP 10 1995

NA'ALEHU THEATRE
P O BOX 588
NA'ALEHU, HI 96772

Employer Identification Number:
99-0319814
Case Number:
955181038
Contact Person:
RANDY HOWARD
Contact Telephone Number:
(213) 725-7002
Accounting Period Ending:
Dec. 31
Foundation Status Classification:
509(a)(2)
Advance Ruling Period Begins:
March 31, 1995
Advance Ruling Period Ends:
Dec. 31, 1999

Dear Applicant:

Based on information you supplied, and assuming your operations will be as stated in your application for recognition of exemption, we have determined you are exempt from federal income tax under section 501(a) of the Internal Revenue Code as an organization described in section 501(c)(3).

Because you are a newly created organization, we are not now making a final determination of your foundation status under section 509(a) of the Code. However, we have determined that you can reasonably expect to be a publicly supported organization described in section 509(a)(2).

Accordingly, during an advance ruling period you will be treated as a publicly supported organization, and not as a private foundation. This advance ruling period begins and ends on the dates shown above.

Within 90 days after the end of your advance ruling period, you must send us the information needed to determine whether you have met the requirements of the applicable support test during the advance ruling period. If you establish that you have been a publicly supported organization, we will classify you as a section 509(a)(1) or 509(a)(2) organization as long as you continue to meet the requirements of the applicable support test. If you do not meet the public support requirements during the advance ruling period, we will classify you as a private foundation for future periods. Also, if we classify you as a private foundation, we will treat you as a private foundation from your beginning date for purposes of section 507(d) and 4940.

Grantors and contributors may rely on our determination that you are not a private foundation until 90 days after the end of your advance ruling period. If you send us the required information within the 90 days, grantors and contributors may continue to rely on the advance determination until we make a final determination of your foundation status.

If we publish a notice in the Internal Revenue Bulletin stating that we will no longer treat you as a publicly supported organization, grantors and contributors may not rely on this determination after the date we publish the

Letter 1045 (DO/CG)

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NA'ALEHU THEATRE

notice. In addition, if you lose your status as a publicly supported organization, and a grantor or contributor was responsible for, or was aware of, the act or failure to act, that resulted in your loss of such status, that person may not rely on this determination from the date of the act or failure to act. Also, if a grantor or contributor learned that we had given notice that you would be removed from classification as a publicly supported organization, then that person may not rely on this determination as of the date he or she acquired such knowledge.

If you change your sources of support, your purposes, character, or method of operation, please let us know so we can consider the effect of the change on your exempt status and foundation status. If you amend your organizational document or bylaws, please send us a copy of the amended document or bylaws. Also, let us know all changes in your name or address.

As of January 1, 1984, you are liable for social security taxes under the Federal Insurance Contributions Act on amounts of \$100 or more you pay to each of your employees during a calendar year. You are not liable for the tax imposed under the Federal Unemployment Tax Act (FUTA).

Organizations that are not private foundations are not subject to the private foundation excise taxes under Chapter 42 of the Internal Revenue Code. However, you are not automatically exempt from other federal excise taxes. If you have any questions about excise, employment, or other federal taxes, please let us know.

Donors may deduct contributions to you as provided in section 170 of the Internal Revenue Code. Bequests, legacies, devises, transfers, or gifts to you or for your use are deductible for Federal estate and gift tax purposes if they meet the applicable provisions of sections 2055, 2106, and 2522 of the Code.

Donors may deduct contributions to you only to the extent that their contributions are gifts, with no consideration received. Ticket purchases and similar payments in conjunction with fundraising events may not necessarily qualify as deductible contributions, depending on the circumstances. Revenue Ruling 67-246, published in Cumulative Bulletin 1967-2, on page 104, gives guidelines regarding when taxpayers may deduct payments for admission to, or other participation in, fundraising activities for charity.

You are not required to file Form 990, Return of Organization Exempt From Income Tax, if your gross receipts each year are normally \$25,000 or less. If you receive a Form 990 package in the mail, simply attach the label provided, check the box in the heading to indicate that your annual gross receipts are normally \$25,000 or less, and sign the return.

If you are required to file a return you must file it by the 15th day of the fifth month after the end of your annual accounting period. We charge a penalty of \$10 a day when a return is filed late, unless there is reasonable cause for the delay. However, the maximum penalty we charge cannot exceed \$5,000 or 5 percent of your gross receipts for the year, whichever is less. We

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NA'ALEHU THEATRE

may also charge this penalty if a return is not complete. So, please be sure your return is complete before you file it.

You are not required to file federal income tax returns unless you are subject to the tax on unrelated business income under section 511 of the Code. If you are subject to this tax, you must file an income tax return on Form 990-T, Exempt Organization Business Income Tax Return. In this letter we are not determining whether any of your present or proposed activities are unrelated trade or business as defined in section 513 of the Code.

You need an employer identification number even if you have no employees. If an employer identification number was not entered on your application, we will assign a number to you and advise you of it. Please use that number on all returns you file and in all correspondence with the Internal Revenue Service.

If we said in the heading of this letter that an addendum applies, the addendum enclosed is an integral part of this letter.

Because this letter could help us resolve any questions about your exempt status and foundation status, you should keep it in your permanent records.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely yours,



Richard R. Orosco
District Director